

minimize fugitive dust (Field of the Invention). Moreover, McCardle teaches an anti-caking composition that includes a protein, a saccharide, an alkali metal or an earth metal (page 4, lines 9-11; page 9, lines 1-18). The Patent Office seems to indicate that the alkali metal or the earth metal disclosed in McCardle are equivalent to the aluminum and transition metals recited in independent claim 1. For the reasons discussed below, Applicant respectfully disagrees.

McCardle teaches that an alkali metal salt or an alkaline earth metal salt and a saccharide are present in the anti-caking agent (page 4, lines 9-11), and the Patent Office seems to indicate that the alkali metal or alkaline earth metal salt in McCardle are equivalent to the aluminum and transition metals recited in independent claim 1. However, alkali metals and alkaline earth metals are completely different classes of elements from aluminum and from transition metals.

Specifically, alkali metals, as defined in the periodic table and as clearly indicated in the document "Periodic Table: Alkali Metals," which is attached to this Request for the Examiner's convenience, alkali metals consist of Lithium, Sodium, Potassium, Rubidium, Cesium, and Francium. Accordingly, McCardle's alkali metals do not include aluminum or transition metals, as recited in independent claim 1. Moreover, alkaline earth metals, as defined in the document "Periodic Table: Alkaline Earth", which is also attached to this Request for the Examiner's convenience, alkaline earth metals consist of Beryllium, Magnesium, Calcium, Strontium, Barium, and Radium. Accordingly, McCardle's alkaline earth metals also do not include aluminum or transition metals, as recited in independent claim 1.

Transition metals are defined in the document "Periodic Table: Transition Metals", which is also attached to this Request for the Examiner's convenience. As is clear from the list of elements that comprise the transition metals, no alkali metals or alkaline earth metals

are part of that list. Accordingly, McCardle's alkali metals and alkaline earth metals are different from the aluminum and transition metals recited in independent claim 1.

Furthermore, McCardle teaches alkali metal salt or alkaline earth metal salt, and does not teach these metals as being part of a carbohydrate-based metal complex. At most, and under very specific conditions, the metals taught in McCardle can form salts with saccharides, but it is generally highly unlikely that such saccharide salts could be formed in the anti-caking composition taught by McCardle because of the acid present in McCardle (page 4, lines 9-11; page 5, lines 27-29). Thus, there would be no motivation to use a metal complex of a saccharide as a non-caking agent simply by relying on the teachings of McCardle, and there also would be no motivation to use an aluminum saccharide complex or a metal complex of a saccharide with a transition metal capable of forming octahedral mixed chloride-oxide structures.

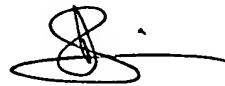
Finally, the recited composition of the non-caking salt composition produces unexpected results and could not have been found obvious on the basis of the teachings in McCardle. For example, McCardle teaches the presence of fructose in the anti-caking composition (page 5, line 10) and sodium chloride as the alkali or alkaline earth metal salt (page 5, line 21), and McCardle shows the non-caking properties of the composition that contains fructose and sodium chloride in Table 1, and comparative entries 6 and 7. It is clear from these entries that the mere use of fructose as the non-caking agent and in the presence of the alkali metal ion sodium does not prevent caking because the salt still exhibits undesired caking. However, an ion complex of fructose exhibits excellent non-caking properties as indicated in the specification at, for example, page 11, lines 13-24, and Table 1, entries 3 and 5). Accordingly, it would not have been obvious to use the teachings of McCardle to arrive at the claimed invention.

For at least these reasons, independent claim 1, and its dependent claims, are patentable over the applied reference. Thus, withdrawal of the rejection of the claims under 35 U.S.C. §103(a) is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-11 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Tarik M. Nabi
Registration No. 55,478

WPB:TMN/amw

Attachments:

Periodic Table: Alkali Metals
Periodic Table: Alkaline Earth
Periodic Table: Transition Metals

Date: January 31, 2006

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
